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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,244	10/20/2003	Jeff Cuppett	5693P228	3431
48102	7590	10/31/2006	EXAMINER	
NETWORK APPLIANCE/BLAKELY			WU, YICUN	
12400 WILSHIRE BLVD			ART UNIT	
SEVENTH FLOOR			PAPER NUMBER	
LOS ANGELES, CA 90025-1030			2165	

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/690,244	CUPPETT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yicun Wu	2165	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6/6/2006.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

*Yicun*  
Patent Examiner  
Technology Center  
2100

### III. DETAILED ACTION

1. Claims 1-33 are presented for examination.

#### **Examiner's Remarks**

2. Applicant's election without traverse of claims 12-33 in the reply filed on 7-13-2006 is acknowledged. Applicant has elected claims 12-33. Therefore, Applicant is reminded to formally cancel claims 1-11.

#### **Claim Rejections - 35 USC 101**

3. 35 U.S.C. 101 reads as follows: Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12-33 are rejected under 35 U.S.C. 101 because the claims are directed to a non-statutory subject matter, specifically, the claims are not directed towards the final result that is "useful, tangible and concrete (See State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

According to the New Guidelines of October 26, 2005, which states that "A claim limited to a machine or manufacture, which has a practical application, is statutory. In most cases a claim to a specific machine or manufacture will have a practical application. See Alappat, 33 F.3d at

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1544, 31 USPQ2d at 1557)... a specific machine to produce a useful, concrete, and tangible result (State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

Examiner requests Applicant to include in Applicant's claimed limitations (in all the claims) the following:

*Claim limitation describing --*

*1. What is the practical application?*

*2. What is final result which Applicant considers concrete, useful and tangible?*

Because the "practical application, result, concrete, useful and tangible" limitations are not claimed in Applicant's claims, Examiner asserts that the above listed claims are nonstatutory.

**Claim Rejections - 35 USC § 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 12-33 are rejected under 35 U.S.C. 102(e) as being anticipated over Schimmel, (U. S. Patent No. 5,960,434).

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As to claims 12, 23 and 30, Schimmel discloses a method for searching a data structure (i.e. hash table. col. 7, lines 38-40), the method comprising:

hashing a search key (key value. Col. 8, lines 10-20) to generate a hash result (i.e. submitted to hashing function. Col. 8, lines 10-20);

determining a first entry (i.e. a first bucket. Col. 8, lines 10-20) in a plurality of entries in the data structure (fig. 5a) using the hash result (i.e. a record having the key value. Col. 8, lines 10-20);

determining if the first entry corresponds to the search key (i.e. a record having the key value. Col. 8, lines 10-20);

if the first entry (i.e. a first bucket. Col. 8, lines 10-20) does not correspond to the search key (i.e. rather than a regular pointer, Col. 8, lines 10-20 and col. 5, lines 25-38),

using information in the first entry (i.e. a first bucket. Col. 8, lines 10-20) to determine a second entry in the data structure (i.e. second bucket. Col. 8, lines 10-20 and col. 5, lines 25-38), the second entry included in a branch one or more branches (fig. 5a) associated with the first entry (Col. 8, lines 10-20); and

if the first entry does correspond to the search key (i.e. found. Col. 9, lines 32-35), performing an action associated with the first entry (Col. 9, lines 32-35).

As to claims 13, 24 and 31, Schimmel discloses a method further comprising:

determining if the second entry corresponds to the search key (fig. 10 and col. 5, lines 25-38); and

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if the second entry does not correspond to the search key (fig. 10 and col. 5, lines 25-38), using information in the second entry to determine a third entry in the data structure (fig. 10 and col. 5, lines 25-38), the third entry included in one or more branches associated with the second entry (fig. 10 and col. 5, lines 25-38).

As to claim 14, Schimmel discloses a method further comprising:

if the second entry does correspond to the search key (fig. 10 and col. 5, lines 25-38), performing an action associated with the second entry (fig. 10 and col. 5, lines 25-38).

As to claim 15, Schimmel discloses a method wherein using the information in the first entry to determine the second entry comprises

comparing the information in the first entry to at least a first part of the search key to determine if the information in the first entry matches the at least the first part of the search key (i.e. identifies a first bucket that potentially stores a record having the key value. Col. 8, lines 9-14 and determine whether a key value for record 124 matches the key value being search for. Col. 5, lines 29-34).

As to claim 17, Schimmel discloses a method wherein determining if the first entry corresponds to the search key comprises

comparing an entry key in the entry to the search key to determine if the first entry matches to the search key (i.e. identifies a first bucket that potentially stores a record having the

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key value. Col. 8, lines 9-14 and determine whether a key value for record 124 matches the key value being search for. Col. 5, lines 29-34).

As to claim 18, Schimmel discloses a method wherein the information is used to determine which branch in the one or more branches associated with the first entry to search in for the second entry (col. 8, lines 9-18).

As to claims 19, 27 and 32-33, Schimmel discloses a method wherein performing the action comprises

at least one of retrieving information from the first entry, updating information in the first entry, and deleting information in the first entry (fig. 10 and col. 8, lines 9-20).

As to claims 20 and 28, Schimmel discloses a method wherein the information comprises a plurality of hints (i.e. bucket array pointer. Fig. 7), wherein a hint in the plurality of hints corresponds to information associated with the search key and points to the second entry (i.e. bucket array pointer. Fig. 7).

As to claims 21 and 29, Schimmel discloses a method wherein each hint is associated with a branch in the one or more branches associated with the first entry (Fig. 7).

As to claims 22, Schimmel discloses a method wherein the data structure comprises

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a linked list (Fig. 7), wherein the first entry is a parent node and the second entry is a child node to the first entry in the data structure (Fig. 7).

25. The method of claim 23, wherein as step (c) is repeated using a first subsequent entry and a second subsequent entry, different information in the search key is used to determine the second subsequent entry than was used in determining the first subsequent entry.

**Allowable Subject Matter**

6. Claim 16 would be allowable if rewritten in independent form and if rewritten to overcome the rejection(s) under 35 U.S.C. 101 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Applicant's particular comparing the information in the second entry to at least a second part of the search key to determine if the information in the second entry matches the at least the second part of the search key, the at least the second part of the search key being different than the at least a first part of the search key in combination with the other limitations of the claims, was not disclosed by, would not have been obvious over, nor would have been fairly suggested by the prior art of record.



**Other Prior Art Made of Record**

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. U.S. patents and U.S. patent application publications will not be supplied with Office actions.

Examiners advises the Applicant that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site ([www.uspto.gov](http://www.uspto.gov) [<http://www.uspto.gov/>](http://www.uspto.gov/)), from the Office of Public Records and from commercial sources. For the use of the Office's PAIR system, Applicants may refer to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

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**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yicun Wu whose telephone number is 571-272-4087. The examiner can normally be reached on 8:00 am to 4:30 pm, Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

Yicun Wu  
Patent Examiner  
Technology Center 2100



September 29, 2006